

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.5855 OF 2005**

Mobin Yasin Ahmed Qureshi & Ors. ...Applicants
VS.
The State of Maharashtra ...Respondent
Mr.Niranjan Mundargi h/f Mr.N.K.Sharma for the Applicants
Mr.R.Y.Mirza,A.P.P. for State

**CORAM: A.S.OKA, J.
DATE : SEPTEMBER 15, 2005**

P.C.:

1. Heard Advocate for the Applicants and learned A.P.P. for State. The Advocate for the Applicants submitted that except for Section 452 of the Indian Penal Code all other sections applied are relating to bailable offences. He submitted that even going by the prosecution case, Section 452 may not apply. The learned A.P.P. pointed out that so far as the Applicant No.1 is concerned, he assaulted the first informant with iron rod. He submitted that Section 452 will have no application.

2. I have considered the submissions. It appears that except for Section 452 of I.P.C. all other offences registered are bailable. From the remand report it appears that the case of the prosecution is that the Applicant No.1 was not carrying the iron rod with him but he picked up the iron rod lying at the spot and assaulted the complainant. Injuries sustained are simple injuries. The applicability of Section 452 of I.P.C., at this stage, appears to be doubtful. Hence, a case

is made out for granting relief.

3. Hence, I pass the following order :

i) In the event of the arrest of the Applicants in connection with C.R.No.186 of 2005 registered at Nirmal Nagar Police Station, Bandra, Mumbai the Applicants shall be enlarged on bail subject to furnishing P.R.Bond in the sum of Rs.5000/- (Rupees five thousand only) each with one or two sureties each in the like amount.

ii) The Bail is granted subject to condition that the Applicants will attend the concerned Police Station as and when called upon to do so till filing of the charge sheet and will cooperate for the purposes of investigation.

iii) The Bail is granted subject to condition that the Applicants shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts to the Court or to the Police Officer/investigating agency. The Applicants shall not tamper with the prosecution evidence.

iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of

the case at the time of trial.

v) This order will enure to the benefit of the Applicants only till charge sheet is filed. Thereafter, he will be free to apply to the appropriate Court for appropriate relief.

vi) Application is disposed of in above terms.

vii) Parties to act upon an authenticated copy of this order.

JUDGE